



**CRA-AS-104-2022
& 01 connected case**

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21/23.02.2017 were set aside and private respondents have been acquitted of all the charges.

3. The brief facts of the case are that on 03.02.2013 at about 8:00 A.M. when the complainant Suman (appellant herein) was present in her house, then accused Anand came and tried to outrage her modesty. On hearing the noise, Sushila came and rescued the complainant. Anand fled away from there, but after some time, he came along with 15-20 persons who were armed with lathi, dandas, knives and axes. They forcibly entered in their house and started giving beatings. The complainant received injuries on her calf of right leg, head and back. The assailants also caused injuries to Ramesh, Suman, Jai Singh, Phulpati and Sushila. On raising the rescue noise, the assailants ran away from the spot along with their respective weapons while giving threats regarding their lives. On the statement of the complainant, as mentioned in brief herein-before the formal FIR under Sections 148, 149, 323, 354, 452 and 506 IPC was registered.

3. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that all the private respondents were not named in the FIR (supra). The appellant and respondents are from the same family. The appellant is *bhabhi* of the respondents. Further, if the respondents would have participated in the alleged occurrence and caused injuries to the complainant and others, they might have been named in the complaint. In fact, one Sushila wife of Jagmender Singh, who is from the family of the appellant has filed a criminal complaint bearing No.169/IC of 2013 against the appellant and others in respect of the same and similar the occurrence i.e. 03.02.2013. Furthermore, no independent witness has been joined by the prosecution, as such, there is no independent corroboration to the



alleged occurrence and all the witnesses are related to each other and their testimonies are not believable. There are material discrepancies regarding the location and place of the occurrence. Furthermore, there is no explanation on record that as to why the case property i.e. weapons allegedly used in the commission of the alleged offence, were not recovered and produced during the trial and there is no explanation for the delay of 12 hours in lodging the FIR (supra). Furthermore, PW-6 Dr. Rajiv Beniwal, has admitted in this cross-examination that the injuries mentioned in the MLRs can be received by fall on hard surface. Therefore, it appears that no cogent or convincing evidence is available on record to indicate culpability on the part of the respondents. As a result, the evidence led by the prosecution do not inspire confidence of this Court.

4. The power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. (See *H.D. Sundara and others vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023*; *Kali Ram vs. State of H.P., 1973 (2) SCC 808 and Chandrappa and others vs. State of Karnataka, (2007) 4 SCC 415*). A Division bench of this Court in the judgment passed in *State of Haryana vs. Ankit and others* passed in *CRM-A No.3 of 2022* decided on 06.07.2023 has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.



5. In view of the facts and circumstances of the case, this Court finds that learned counsel for the appellant has failed to point out any perversity or illegality in findings recorded by the lower Appellate Court, which warrants interference by this Court. As such, there is no merit in the present appeals and hence, both the appeals are hereby dismissed.

October 14, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No